

June 30, 1995

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RE: Petition of Triangle Transportation Company, Inc. for Charter Carrier Permit Authority (OAH Docket No. 7-3001-9606-2, TRB Docket No. CH 146851/A-94-795); AND

Petition of Lange Transport, Inc. for Extension of Charter Carrier Permit Authority (OAH Docket No. 7-3001-9618-2, TRB Docket No. CH 57484/E-94-811, Sub. 3) — Notice of Filing/Briefing Period.

Dear Counsel:

I have completed review of the record in the above-entitled matters that were tried last month, and conclude it is necessary to file and/or brief certain information and arguments regarding the following specific matters and issues in these cases. The submissions shall be simultaneous, due on Monday, July 24, 1995. If I decide Replies or a reopening of the case for further cross-examination is warranted, you will be notified. Service by FAX is allowed (612/349-2665), so long as the hard copy is mailed concurrently with the FAX filing. In certain cases, you can agree among yourselves that one or the other of you will file certain documents that you both may possess. Please supply the other side with all filings. Please respond as follows:

1) Has the TRB acted yet on Triangle's Petition for abandonment of the East Grand Forks - Duluth route? If so, please supply me with a copy of the Board's Order. If abandonment was granted, is it proper to dismiss Triangle as a Protester in the Lange case? Or, is it appropriate to treat the de facto abandonment as of December 31, 1994 as operating to disqualify Triangle as a Protester?

2) How should Triangle's de facto abandonment of the East Grand Forks - Duluth route on December 31, and the timing of the filing of its application/permission (if any) for that abandonment affect a recommendation on Triangle's fitness and ability?

3) Counsel for Triangle is requested to file with me copies of all of Triangle's charter carrier authorities, state and federal, in all jurisdictions.

4) Testimony was introduced regarding "TRB approval" of the purchase of Triangle by Leon Pierce, and the transfer of Minnesota intrastate authority to him. I request counsel to supply me with all pertinent documents.

5) I would like further explanation of the item "Premium Paid to Reacquire Stock", an Equity item (negative \$260,000) on Applicant's Exhibit 3 in the Triangle case. How, if at all, does it relate to the long-term liability to Luaine Pierce? This matter can be answered by way of an affidavit from Mr. Pierce or his accountant.

6) The Statement of Assets and Liabilities filed with Triangle's Petition shows a negative net worth of over \$131,000. Given that, is it appropriate to recommend that Triangle is financially fit and able?

7) Testimony was taken regarding Triangle's having picked up passengers at points in counties not traversed by U.S. Highway 2, such as Thief River Falls, Warren, and Shelly. Assuming some of these pickups were made on intrastate trips (please correct me if not), how does that relate to a recommendation of fitness and ability regarding Triangle?

8) When did Eugene Lange begin a school bus business (I do not believe the record shows this)?

9) Please supply me with a Statement of Assets and Liabilities (copy attached) for Lange Transport, Inc. Does the Statement cover the charter bus business only? Is the school bus business incorporated? If so, please include separate data for the charter bus business entity.

10) Please file with me the documentation showing Lange's "Conditional" Safety Rating from the United States DOT on February 9, 1995. What effect should this rating have on the granting of Lange's application in this case? Has Lange established that its vehicles meet the "safety standards established by the Department" within the meaning of Minn. Stat. § 221.121?

11) Has counsel or Mr. Lange received any documents from the Minnesota DOT closing out the Department's Administrative Penalty Order issued on March 14, 1995? Please file them.

12) Regarding the March 14 Administrative Penalty Order, what effect should the fact that Lange performed the run from Luverne to Baudette specified therein have on a recommendation regarding Lange's fitness and ability? Also, how should the improper rate charges noted in the APO affect any recommendation in the Lange case? To what degree has Lange admitted the charges in the APO, either at the hearing or by paying a lesser penalty in settling the case?

13) How should my recommendation on Lange's fitness and ability be affected by Lange's picking up passengers (other than the incident noted in the APO) at points outside his authorized authority, such as other "runs" for Sportsman's Lodge (Baudette to Duluth, Baudette to Minneapolis, a separate run from Baudette to Luverne?) and the movement of Girl's State delegates from Nevis to Austin?

14) Regarding Jutz Inc's. Protest in the Lange case, and the authority to make that protest, counsel raised a concern about Joseph Jutz's employment with Earl Le Mieur Enterprises and counsel for the Protestant filed subsequently an October 28, 1992 Order of the TRB transferring the authority to Jutz, Inc. that was used as grounds for its Protest against Lange. I do not believe that the document addresses the question of whether Joseph Jutz is involved inappropriately in two entities. I ask counsel for Jutz in the Lange case to supply me with more information, including possibly an affidavit from Joseph Jutz, regarding the separate involvements and whether the Board has had opportunity to review the appropriateness of them in the past. In that connection, counsel asked me to take Official Notice of the transfer file. Counsel is directed to provide for me the appropriate documents from that file.

Thank you for your cooperation.

Sincerely,

RICHARD C. LUIS
Administrative Law Judge

Telephone: 612/349-2542

RCL:llc